



FEDERAL EMERGENCY MANAGEMENT AGENCY

INSTRUCTION

Date
August 11, 1994

Number
1420.1

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Access to Agency Programs and Activities by Persons with Disabilities

1. Purpose. This instruction revises the policies of the Federal Emergency Management Agency (FEMA) for ensuring that individuals with disabilities have access to the Agency's programs and activities.

2. Applicability and Scope. The provisions of this instruction are applicable to all employees in headquarters, regions, and field establishments.

3. Supersession. The provisions of this instruction supersede FEMA Instruction 1420.1, Access to Agency Programs and Activities by Persons with Disabilities, dated October 20, 1992.

4. Authorities.

a. Rehabilitation Act of 1973, Sections 504 and 508 (Title 29 United States Code (USC) 794), as amended.

b. Telecommunications Accessibility Enhancement Act of 1988 (Title 40 USC 762).

5. References.

a. Title 44, Code of Federal Regulations (CFR), Part 16, Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Federal Emergency Management Agency.

b. Title 28 CFR, Part 36, Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Appendix A: Standards for Accessible Design.

c. Equal Employment Opportunity Commission (EEOC), Management Directive 713, Affirmative Action for Hiring, Placement, and Advancement of Individuals with Handicaps.

d. Executive Order 12250, Leadership and Coordination of Nondiscrimination Laws, dated November 2, 1980.

e. Office of Management and Budget Circular No. A-130, Revised (Transmittal Memorandum No. 1), Management of Federal Information Resources, June 25, 1993.

Distribution: C(HqBranch Chiefs)
H(FldBranch Chiefs)

f. Director's Policy Statement 2-93, Access to Agency Programs by Persons with Disabilities.

g. General Services Administration (GSA), Federal Information Resources Management Regulation (FIRMR), Title 41 CFR Chapter 201, Federal Information Resources Management Regulations.

h. GSA, FIRMR Bulletin C-8, Information Accessibility for Employees with Disabilities.

i. GSA, FIRMR Bulletin C-10, Telecommunications Accessibility for Hearing and Speech Impaired Individuals.

j. GSA Handbook, Managing Information Resources for Accessibility, dated December 1991.

k. FEMA, Transition Plan for the Removal of Architectural Barriers in Agency Facilities, dated February 1991.

6. Policy. It is FEMA's policy to ensure that all persons with disabilities have equal access to the Agency's programs and activities as established in Title 44 CFR, Section 16.149, Program Accessibility: Discrimination Prohibited. The only exceptions to this policy will be those cases in which the proposed accommodation constitutes an undue financial or administrative burden or results in a fundamental alteration of the program or activity in which the proposed accommodation is to be made.

7. Background. Section 504 of the Rehabilitation Act of 1973 provides that no qualified person may be discriminated against solely on the basis of disability by any recipient of Federal financial assistance. In 1978 Congress amended the law to require Federal departments and agencies to meet the same nondiscrimination standards as those set for grantees. Each Federal department and agency issued a regulation to implement the new law. The FEMA regulation (Title 44 CFR, Part 16) defines the types of physical and mental disabilities covered, and the varieties of prohibited discrimination. Although aimed particularly at protecting members of the public with disabilities who participate in federally conducted programs or activities, Title 44 CFR, Part 16, also covers employment of persons who are disabled. The rule establishes the concept of program access. While the Agency's facilities need not be totally accessible in every respect, they must be accessible enough to allow a person with a disability to participate meaningfully in a given program or activity. Title 44 CFR, Part 16 also provides guidelines for access in currently used buildings and in newly constructed structures. It mandates a 3-year transition plan for the removal of all architectural or communication barriers in the Agency's facilities and the removal thereafter as expeditiously as possible of all barriers that may remain after the deadline of the plan. Requirements for special communication systems for hearing and speech impaired persons are set

forth, and a compliance and complaint processing procedure is established. In 1986, the Rehabilitation Act of 1973 was amended by adding Section 508, Electronic Equipment Accessibility. Two years later, the Telecommunications Accessibility Enhancement Act of 1988 was enacted. Guidance with which FEMA and other Federal departments and agencies must comply regarding Section 508 and the Telecommunications Accessibility Enhancement Act of 1988 is in the FIRMR.

8. Responsibilities.

a. The Director, FEMA, is responsible for establishing Agency policy in accordance with Federal statutes and regulations to ensure persons with disabilities have access to the Agency's programs and activities.

b. The Designated Senior Official for Information Resources Management is responsible for:

(1) Overseeing implementation of the policy for ensuring access to FEMA's information resources for individuals with disabilities; and

(2) Authorizing individual deviations from the FIRMR for acquisitions limited solely to providing electronic office equipment accessibility for employees with disabilities, as stipulated by the FIRMR, Title 41 CFR 201-3.402, Exception.

c. The Associate Directors, Administrators, Regional Directors, Heads of Field Establishments, and Office Directors are responsible for:

(1) Removing architectural and communication barriers in locations now under their respective jurisdiction and control;

(2) Ensuring that Disaster Field Offices, Disaster Application Centers, National Tele-registration Centers, Central Processing Offices, and any other facilities providing FEMA assistance in a disaster declaration area are located in accessible facilities, unless an emergency waiver of accessibility is required from the GSA in order to commence operations expeditiously. Where it is not possible to locate programs and activities in fully accessible structures, all feasible steps are to be taken to make the structure as accessible as possible on a temporary basis;

(3) Ensuring that accessible means of transportation are available when required in any program or activity that routinely includes transportation, either through purchase or contractual arrangements for vehicles accessible to or usable by persons with disabilities;

(4) Ensuring that all Agency-sponsored conferences, training sessions and courses, and meetings are held in locations that are accessible to or usable by persons with disabilities;

August 11, 1994

(5) Ensuring that all publications designed for the general public originating within their respective offices are available in alternate formats for persons who are visually impaired. Such formats may include Braille, audio tape, large print, CD-ROM, and computer disk;

(6) Ensuring that all films, videotapes, videoconferences, and public service announcements produced by their respective offices contain closed captions for deaf or hearing-impaired individuals. Where the target audience of the item is the general public, funding for provision of closed-captioning must be included in the original production budget. In the case of audio-visual materials with a more limited audience, the requirement for access may be met, upon request and by a reasonable deadline, by any other means that affords the individual who is deaf or hearing-impaired an effective opportunity to receive the information contained in the item. Such methods may include production of a written script or use of a sign-language interpreter;

(7) Submitting an annual report to the Director, Office of Equal Rights, on barrier removal accomplishment at facilities under their respective jurisdiction, including Disaster Field Offices, Disaster Application Centers, Central Processing Offices, and other structures or buildings used in connection with disaster operations and also on measures taken to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public who have disabilities. This report should be prepared in narrative form and should be submitted no later than the close of each fiscal year (September 30). Reports from regional offices should be submitted through the Office of Regional Operations; and

(8) Assisting the Associate Director for Operations Support in the preparation of the annual report to the Director, Office of Equal Rights, on measures taken to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public who have disabilities (see subparagraph 8e(2)).

d. The Director, Office of Equal Rights, is responsible for:

(1) Providing technical assistance to managers, supervisors, and other employees in carrying out the provisions of Title 44 CFR, Part 16;

(2) Ensuring that the compliance and complaint procedures defined in Title 44 CFR, Section 16.170, Compliance Procedures, are carried out;

(3) Issuing final determinations in all cases in which an Associate Director, Administrator, Regional Director, Head of Field Establishment, or Office Director concludes that a given accommodation (requested by an employee or private citizen with a disability) either imposes an undue burden on the operations of the Agency or fundamentally alters the program or activity within which the accommodation has been requested; and

(4) Ensuring compliance with the Agency's transition plan for architectural and communication barrier removal as required by Title 44 CFR, Section 16.150, Program Accessibility: Existing Facilities.

e. The Associate Director, Operations Support Directorate, is responsible for:

(1) Assessing accessibility to the Agency's telecommunications by persons who are hearing or speech impaired and, through the use of telecommunication devices for the deaf (TDD's) or equally effective means, removing communication barriers throughout the Agency that impede access, to the extent both present and future needs for such access are identified in requirements analyses, and assisting others in FEMA in doing so.

(2) Submitting an annual report to the Director, Office of Equal Rights, on measures taken to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public who have disabilities. This report should be prepared in narrative form and should be submitted no later than the close of each fiscal year (September 30).

(3) Providing, and assisting others in FEMA in providing, equivalent access to the Agency's electronic office equipment (which includes access to Federal public information resources) for current or prospective employees and for others with disabilities, to the extent both present and future needs for such access are determined by the Agency.

(4) Complying, and assisting others in FEMA in complying with Section 508(a), as amended by Section 509 of Public Law 102-569, to ensure that current or prospective employees with disabilities and others with disabilities who use the Agency's information resources can produce information and data and have access to information and data, regardless of the type of medium, comparable to the information and data and access, respectively, of individuals without disabilities, to the extent both present and future needs for such access are determined by the Agency.

(5) Providing technical support, maintenance, and readily available backup units to adaptive computer equipment and TDD's used by employees with disabilities, and training and documentation to the employees who use the equipment and devices.

f. The Director, Special Facility Management Division, Preparedness, Training and Exercises Directorate, is responsible for providing technical expertise to the regions and field establishments on the feasibility of barrier removal.

August 11, 1994

g. Managers and Supervisors are responsible for:

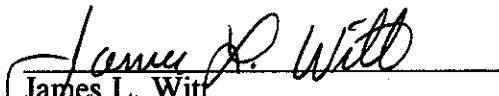
(1) Ensuring that employees with disabilities receive reasonable accommodations that allow them to perform their jobs in a manner equal to that of persons without disabilities;

(2) Promptly informing the Deputy Associate Director for Information Technology, Operations Support Directorate, of the hiring, reassignment, or departure from FEMA of an employee with disabilities or change in the requirements for accommodation of an Agency employee with disabilities so that appropriate action regarding accessibility to telecommunications and information can be taken in a timely manner; and

(3) Ensuring that qualified members of the general public with disabilities receive access to Agency programs and activities as set forth in Title 44 CFR, Part 16.

9. Annual Report of Barrier Removal. The Department of Justice and the Equal Employment Opportunity Commission require Federal departments and agencies to report annually on progress of program accessibility. The reports are narrative and are used as feeder reports to these Federal departments and agencies. The report must address work performed to modify or improve accessibility to Agency facilities and measures taken to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public. Illustrative examples include, but are not limited to, such activities as: installation or modification of rest rooms, installation or upgrade of TDDs, and creation of tactile signage for visually impaired persons.

10. Reporting Requirement. Internal Reports Control number HR(A)9 has been assigned to the Annual Report of Barrier Removal Accomplishment due to the Director, Office of Equal Rights, by the last day of each fiscal year.


James L. Witt
Director